Court No. 3

Criminal Application No. 216 of 2003

Gulshan Kumar ……Petitioner

Vs.

State of Uttaranchal ….Respondent.

Hon'ble Irshad Hussain, J.

This is a petition under section 482 of the Code of Criminal Procedure against the impugned order dated 3.5.2003 passed by the Sessions Judge Chamoli in Sessions Trial No. 11/2003 under sections 304-A, 342, 323, 504, 506 IPC and section (I)(X)(XIV) of the S.C. and S.T. Act whereby the application of the petitioner-accused for staying the proceedings of the trial was rejected.

(2). Heard Sri Pankaj Purohit learned counsel for the petitioner and learned A.G.A.

(3). The application for seeking stay of the proceedings of the sessions trial was moved on the ground that the investigation of the case was transferred to C.B.C.I.D by the order of the government. Annexure-2 is the copy of the said order dated 29.1.2000 which was passed after the chargesheet had already been filed by the police on 15.1.2000 before the competent Magistrate. When the investigation had been completed the government has no power to direct re-investigation. Under law further investigation under section 173 (8) of the Code of Criminal Procedure could have been permitted after formal permission of the Magistrate concerned and this appear to have not been done in this case. Considering this aspect the learned Sessions Judge was fully justified in rejecting the application for staying the proceedings in the sessions trial.

(4). There is no merit in this petition and the same is dismissed in limine.

Date: 27-9-2003. **(Irshad Hussain, J.)**

ISB